

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING )  
PHARMACY, INC., PRODUCTS LIABILITY )  
LITIGATION )

) MDL No.: 2419  
) Master Docket No.: 1:13-md-2419-FDS  
)

THIS DOCUMENT RELATES TO: )

All Actions. )

**DECLARATION OF BENJAMIN A. GASTEL**

Benjamin A. Gastel declares, under penalty of perjury on the date identified below, as follows:

1. I am an attorney at Branstetter, Stranch, and Jennings, PLLC, and our firm sits on the Plaintiffs' Steering Committee "(PSC)" in the above-styled lawsuit (the "MDL"). I make this declaration in support of the contemporaneously filed Motion for Order On Filing Exhibits With Short Form Complaints.

2. On December 11, 2013, I sent an email to counsel representing Saint Thomas West Hospital f/k/a Saint Thomas Hospital, Saint Thomas Network, Saint Thomas Hospital, Saint Thomas Outpatient Neurosurgical Center, Howell Allen Clinic, Dr. John Culclasure, Debra Schamberg, R.N., Specialty Surgery Center, and Dr. Kenneth Lister (collectively the "Tennessee Defendants") requesting that they stipulate to the relief sought in the Motion for Order On Filing Exhibits With Short Form Complaints. To date, I have not received a response to this request. A copy of the correspondence sent to counsel is attached hereto as Exhibit A.

Executed on this 12th day of December, 2013, in Nashville, Tennessee.

  
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Benjamin A. Gastel

**Lisa Casey**

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**Subject:** FW: Short Form Complaints in MDL 2419

**Importance:** High

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**From:** Ben Gastel  
**Sent:** Wednesday, December 11, 2013 1:41 PM  
**To:** 'yvonne.puig@nortonrosefulbright.com'; 'chris@gideoncooper.com'  
**Cc:** 'bleader@leaderbulso.com'; Kristen Johnson Parker ([kristenjp@hbsslaw.com](mailto:kristenjp@hbsslaw.com)); Chalos, Mark P. ([mchalos@lchb.com](mailto:mchalos@lchb.com)) ([mchalos@lchb.com](mailto:mchalos@lchb.com)); 'gnolan@leaderbulso.com'  
**Subject:** Short Form Complaints in MDL 2419  
**Importance:** High

Yvonne and Chris,

As you are aware, Tennessee plaintiffs with cases on file have until December 20, 2013 to file short form complaints. I am writing to request that you stipulate that a party need not reattach exhibits from an originally filed complaints to comply with the requirements of T.C.A. 29-26-121 and 122. As you know, these Tennessee statutes require a plaintiff to "file" with a complaint certain documents. We believe it is administratively unnecessary to attach to short form complaints those documents that were previously attached to an original long form complaint. To be clear, we are not asking that you stipulate the documents are proper under the law, only that a party would not be in violation of those statutes by referencing the previously filed documents. This would save a tremendous time in filing short form complaints if a party can simply reference those previously filed documents, as opposed to physically attaching them to the short form. We believe Judge Saylor would agree this is a fair approach, and we would prefer not to have to raise this with him on Friday as a contested issue between the parties. Please let us know by COB today if this is acceptable so we can get it on the agenda if necessary.

Warmest Regards,

Ben Gastel  
**Branstetter, Stranch & Jennings, PLLC**  
227 Second Ave. N.  
Fourth Floor  
Nashville, TN 37061-1631  
P: 615.254.8801  
F: 615.255.5419